

Introduced by Senator KnightFebruary 6, 2003

An act to amend Section 143 of the Streets and Highways Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 138, as introduced, Knight. State Highway Route 138: toll road.

Existing law authorizes the Department of Transportation, prior to January 1, 2003, to solicit proposals and enter into agreements with private entities or consortia for the construction of 2 toll road projects, and specifies various terms and conditions that are applicable to these projects.

This bill would additionally authorize the department to solicit proposals and enter into agreements under these provisions for the construction of a toll road in the State Highway Route 138 corridor between Palmdale and Victorville in Los Angeles and San Bernardino Counties, except that the department would be precluded from including a noncompetition provision relative to improvements that may otherwise be undertaken by public agencies in this corridor.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) Certain segments of State Highway Route 138 between
- 3 Palmdale and Victorville in Los Angeles and San Bernardino
- 4 counties have experienced a significant increase in the number of
- 5 collisions resulting in fatalities over the last several years,



1 attributable to the configuration and number of available lanes on
2 those segments.

3 (b) Funding to construct additional lanes and other necessary
4 improvements is not available at the state level.

5 (c) It is therefore appropriate to consider other funding options,
6 including a toll road.

7 SEC. 2. Section 143 of the Streets and Highways Code is
8 amended to read:

9 143. (a) The department may solicit proposals and enter into
10 agreements with private entities, or consortia thereof, for the
11 construction by, and lease to, private entities of two public
12 transportation demonstration projects. ~~The~~ *Except as provided in*
13 *subdivision (g), the* department shall not enter into an agreement
14 for any new proposals under this authority after January 1, 2003.

15 (b) For the purpose of facilitating those projects, the
16 agreements may include provisions for the lease of rights-of-way
17 in, and airspace over or under, state highways, for the granting of
18 necessary easements, and for the issuance of permits or other
19 authorizations to enable the private entity to construct
20 transportation facilities supplemental to existing state-owned
21 transportation facilities. Facilities constructed by a private entity
22 pursuant to this section shall, at all times, be owned by the state.
23 The agreement shall provide for the lease of those facilities to the
24 private entity for up to 35 years. In consideration therefor, the
25 agreement shall provide for complete reversion of the privately
26 constructed facility to the state at the expiration of the lease at no
27 charge to the state.

28 (c) The department may exercise any power possessed by it
29 with respect to the development and construction of state
30 transportation projects to facilitate the development and
31 construction of transportation projects pursuant to this section.
32 Agreements for maintenance and police services entered into
33 pursuant to this section shall provide for full reimbursement for
34 services rendered by the department or other state agencies. The
35 department may provide services for which it is reimbursed with
36 respect to preliminary planning, environmental certification, and
37 preliminary design of the demonstration projects.

38 (d) (1) Agreements entered into pursuant to this section shall
39 authorize the private entity to impose tolls for use of a facility
40 constructed by it, and shall require that over the term of the lease

1 the toll revenues be applied to payment of the private entity's
2 capital outlay costs for the project, the costs associated with
3 operations, toll collection, administration of the facility,
4 reimbursement to the state for the costs of maintenance and police
5 services, and a reasonable return on investment to the private
6 entity. The agreement shall require that any excess toll revenue
7 either be applied to any indebtedness incurred by the private entity
8 with respect to the project or be paid into the State Highway
9 Account, or both.

10 (2) The authority to collect tolls for the use of these facilities
11 shall terminate at the expiration of the franchise agreement.

12 (e) The plans and specifications for each project constructed
13 pursuant to this section shall comply with the department's
14 standards for state transportation projects. A facility constructed
15 by and leased to a private entity shall, during the term of the lease,
16 be deemed to be a part of the state highway system for purposes
17 of identification, maintenance, enforcement of traffic laws, and for
18 the purposes of Division 3.6 (commencing with Section 810) of
19 Title 1 of the Government Code.

20 (f) The assignment authorized by subdivision (c) of Section
21 130240 of the Public Utilities Code is consistent with this section.

22 (g) *Notwithstanding subdivision (a), the department may also*
23 *solicit proposals and enter into agreements with private entities or*
24 *consortia pursuant to this section for the construction of a toll road*
25 *in the State Highway Route 138 corridor between Palmdale and*
26 *Victorville in Los Angeles and San Bernardino Counties. However,*
27 *the department may not enter into an agreement for this project*
28 *that includes a noncompetition provision relative to improvements*
29 *that may otherwise be undertaken by public agencies in this*
30 *corridor.*

